

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HARRY G. SCHORTMANN, ET AL.,)
Plaintiffs,)
)
v.) C.A. No. 04-11011-MLW
)
INTERNAL REVENUE SERVICE OF)
THE UNITED STATES GOVERNMENT,)
Defendant.)

MEMORANDUM AND ORDER

WOLF, D.J.

January 9, 2006

Pro se plaintiffs, Harry G. Schortmann, Jr. and Jacqueline Schortmann, have sued the "Internal Revenue Service of the United States Government" for the alleged breach of an agreement that plaintiffs would be paid a refund plus interest. The "Complaint Amended" seeks damages in the amount of at least \$154,000. The defendant has moved to dismiss this case for lack of jurisdiction or have it transferred to the United States Court of Federal Claims.

28 U.S.C. §1491(a)(1) provides that the United States Court of Claims has jurisdiction in cases based upon "any express or implied contract with the United States." 28 U.S.C. §1346(a)(2) provides that District Courts have jurisdiction, concurrent with the Court of Federal Claims, in civil actions "against the United States not exceeding \$10,000 in amount." It is clear from plaintiffs' "Complaint Amended" that their claim is based on an alleged contract and exceeds \$10,000. Therefore, this District Court lacks

jurisdiction over it.

Accordingly, it is hereby ORDERED that:

1. United States Motion to Dismiss Complaint, or in the Alternative, Transfer Case to United States Court of Federal Claims (Docket No. 10) is ALLOWED.

2. In the interest of justice, this case is TRANSFERRED to the United States Court of Federal Claims. See 28 U.S.C. §1631.

/s/ MARK L. WOLF
UNITED STATES DISTRICT JUDGE